

Message Text

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ACTION ARA-10

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FM AMCONSUL GUAYAQUIL

TO SECSTATE WASHDC PRIORITY 3525

INFO AMEMBASSY QUITO

C O N F I D E N T I A L GUAYAQUIL 1399

E.O. 11652: GDS

TAGS: CASC, EFIS, EC

SUBJ: B&B FISHERIES - MIMI B

REF: A. GUAYAQUIL 1016; B. STATE 267267

1. FINAL SCENE OF B&B FISHERIES EPISODE MAY BE OPENING NOW IN GUAYAQUIL. THIS CONCERNS DETENTION OF OTHER B&B BOAT, MIMI B, HELD IN PORT OF MANTA FOR LAST SEVERAL MONTHS IN DISPUTE OVER BREAKING OF CONTRACT IN JUNE BY B&B FISHERIES INTERNATIONAL PRESIDENT BIX BONNEY WITH LOCAL GOE AGENCY EMPRESA PESQUERA NACIONAL (EPNA). DEPARTMENT WELL AWARE OF CASE IN GENERAL FROM PREVIOUS CORRESPONDENCE AND THAT FIRST BOAT, PATRICIA B, WAS RELEASED LAST MONTH.

2. ON DECEMBER 3 LARRY M. CREWS AND WIFE ARRIVED IN GUAYAQUIL ON BEHALF OF DARWIN CORPORATION, REGISTERED OWNER OF MIMI B, CARRYING POWER OF ATTORNEY (NOT NOTARIZED) SIGNED BY DARWIN SECRETARY ROBERT C. ELY (WHO IS ALSO OFFICER OF B&B FISHERIES) AUTHORIZING CREWS TO REPAIR, PROVISION, AND SAIL THE MIMI B TO SAN DIEGO, CALIFORNIA" . . . AND IN SO DOING, TO INCUR SUCH LIABILITIES AS TO HIM SEEM APPROPRIATE AND NECESSARY TO ACCOMPLISH THAT VOYAGE". POWER OF ATTORNEY DATED NOV. 22, 1974.

3. CREWS CALLED ON CONGEN SAME DAY TO EXPLAIN THAT HE IS A COMMERCIAL FISHERMAN SENT BY DARWIN TO OBTAIN RELEASE OF MIMI B. HE SAID HE HAD INSTRUCTIONS TO PROVE TO DR. CARLOS JULIO AROSEMENA (THE LAWYER WHO FILED THE \$50,000 LIEN AGAINST THE MIMI B - SEE CONFIDENTIAL

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REFTEL A) THAT THE MIMI B BELONGS TO DARWIN WHICH WAS NOT A PARTY TO

THE CONTRACT DISPUTE WITH B&B AND, THEREFORE, BOAT SHOULD NOT BE HELD CAPTIVE HERE. CREWS SAID HE HAD BEEN TOLD TO SAY THIS WAS INTERNATIONAL LAW. HE HAD WITH HIM OFFICIAL U.S. REGISTRY CERTIFICATE PROVING THAT BOAT BELONGS TO DARWIN. CREWS SAID THAT HE HAD ALREADY CONTACTED B&B LEGAL REP MIGUEL SEMINARIO WHO HAD PROMISED TO TRY TO SET UP VISIT WITH AROSEMENA. CREWS SAID HE HAD VISITED PORT OF MANTA TO CHECK CONDITION OF BOAT AND QUESTIONS OF PORT CHARGES AND FUEL ARRANGEMENTS WITH PORT CAPTAIN.

4. CONGEN HAS KEPT IN CONSTANT TOUCH WITH CREWS SINCE FIRST MEETING TUESDAY. HE HAS HIRED LOCALLY RESPECTED LAWYER, ALFONSO TRUJILLO (WHO INCLUDES BANK OF AMERICA AMONG HIS CLIENTS), TO HELP HIM DEAL WITH ALL LEGAL ASPECTS OF CASE, INCLUDING DIRECT CONTACTS WITH DR. AROSEMENA. (AROSEMENA IS FORMER ECUADOREAN PRESIDENT NOTED FOR ANTI-U.S. ATTITUDE AND PASSION FOR STRONG DRINK). DECEMBER 4, CREWS MET WITH AROSEMENA WHO IS REPRESENTING NYON TECHNICAL & COMMERCIAL, INC. HE TOLD CREWS AND TRUJILLO THAT NYON IS PERUVIAN FIRM AND OWNER OF REFRIGERATION BOAT "BEATRIZ" WHICH WAS PART OF ORIGINAL B&B FISHING ARRANGEMENT AND WHICH SANK AFTER BONNEY CANCELLED INSURANCE WHILE CONTRACT WAS STILL VALID. \$50,000 CLAIM IS COMPENSATION NYON SEEKING FOR LOSS OF "BEATRIZ". DURING MEETING, CREWS OFFERED AROSEMENA \$40,000 IN SETTLEMENT PLUS \$5,000 IN INTEREST AND LEGAL FEES AND ANOTHER \$5,000 TO SETTLE AMOUNT CALIMED SEPARATELY BY SEMINARIO FOR MONEY HE SAYS B&B OWES HIM. (SEMINARIO CLAIM HAS NOTHING TO DO WITH AROSEMENA'S SUIT, AND OFFER WAS MADE BY CREWS IN EFFORT TO CLEAR UP ALL MONEY MATTERS AS SOON AS POSSIBLE). AROSEMENA REPORTEDLY WAS PLEASED TO SEE CREWS AND WILLING TO CONSIDER OFFER AND SAID HE WOULD CONTACT NYON RE ACCEPTANCE.)

5. CREWS HAS PRIVATELY TOLD CONGEN THAT B&B WILLING TO GO AS HIGH AS THE \$50,000 AROSEMENA WANTS, PLUS THE ADDED \$10,000 MENTIONED ABOVE, IF THAT IS NECESSARY TO GAIN RELEASE OF MIMI B. HE ALSO SAYS THAT ADDITIONAL MONEY FOR PORT CHARGES (WHICH WILL BE IN NEIGHBORHOOD OF AT LEAST \$2,000) AND FOR FUEL TO LEAVE IS NO PROBLEM. NEITHER IS SUBSISTENCE FOR HIMSELF AND WIFE DURING TIME THEY ARE HERE. CREWS SAYS HE HAS BEEN IN TOUCH WITH ELY (IN KODIAK, AKASKA) AND IS TRYING TO ARRANGE TO HAVE ENTIRE SUM SENT HERE C/O BANK OF AMERICA. BANK HAS INDICATED WILLINGNESS TO HELP AS MUCH AS POSSIBLE.

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6. CREWS HAS REPORTED RECEIVING RELIABLE INFORMATION THAT BEATRIZ HAS NOT SUNK AND IS RESTING IN A BAY OFF SHORE AT GALAPAGOS ISLANDS. CREWS SAYS HE ATTEMPTING TO VISIT ISLANDS TO VERIFY. ALSO, CREWS HAS MET WITH ONE RAY HOLTZ WHO REPORTEDLY SENT HERE MONTHS AGO BY B&B AS BOOKKEEPER FOR LOCAL OPERATION AND WHO CLAIMING B&B PROMISED HIM \$1,000 A MONTH FOR WORK. HOLTZ, WHO UNKNOWN TO CONGEN, SAYS B&B OWES HIM \$11,000 AND THAT HE WAS PLANNING TO SUE FOR

THIS AMOUNT AND PUT SECOND LIEN ON MIMI B IN ADDITION TO AROSEMENA'S. HOLTZ HAS APPARENTLY BEEN TALKED OUT OF THIS BY CREWS AND NOW WILLING TO SETTLE FOR \$3,000.

7 COMMENT. DESPITE CORDIAL STARTS IN TALKS, THINGS NOT GOING SMOOTH BELOW SURFACE. B&B UNFORTUNATELY APPEARS TO HAVE TENDENCIES TO HANDLE MATTER IN CLUMSY MANNER, AND ONLY ADVICE FROM CREWS' LAWYER AND INFORMAL GUIDANCE FROM BANK OF AMERICA MANAGER AND CONSULATE HAS KEPT CREWS FROM DIRECT CONFRONTATION WITH AROSEMENA. (CREWS SEEMS TO BE SERIOUS-MINDED, RATIONAL INDIVIDUAL BUT PROBABLY NOT TYPE OF PERSON B&B SHOULD HAVE SENT ON THIS COMPLICATED MISSION. HOWEVER, FOR TIME BEING IT SEEMS THAT B&B WILL LEAVE IT TO HIM.) AMONG ORIGINAL INSTRUCTIONS CREWS HAD WAS" ... TO MAKE A RUN FOR IT IF POSSIBLE". IN PHONE CALL LAST NIGHT TO ELY, CREWS WAS ASKED IF HE WILLING TO TAKE "TOUGH" POSITION AND "REFUSE TO PAY ANYTHING", INSISTING THAT AROSEMENA CLAIM ILLEGAL. CREWS ALSO SAYS THAT SEN. STEVENS HAS BEEN CONTACTED BY B&B AND PROMISED THAT THE STATE DEPARTMENT WOULD INTERVENE" ... IN THIS ILLEGAL SEIZURE". CONGEN WILL CONTINUE TO FOLLOW CASE CLOSELY. WE DO NOT KNOW IF NYLON TECHNICAL AND COMMERCIAL, INC., IS U.S. FIRM (AS REPORTED TO US BY MANTA PORT CAPTAIN) OR PERUVIAN COMPANY (AS STATED BY AROSEMENA). BIX BONNEY AND ROBERT ELY ARE OFFICERS OF BOTH B&B FISHERIES AND DARWIN COMPANY AND THEREFORE DARWIN'S OWNERSHIP OF MIMI B MAY BE HELD IMMATERIAL UNDER ECUADOREAN LAW. FINAL POSSIBLE COMPLICATION STEMS FROM THIS WEEK'S FORCED RESIGNATION OF VICENTE TAMARIZ AS DIRECTOR OF EPNA (EMPRESA PESQUERA NACIONAL), REPORTEDLY BECAUSE OF HIS INEPT HANDLING FROM START TO FINISH OF ABORTED ASSOCIATION AGREEMENT BETWEEN EPNA AND B&B.
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